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6 BEFORE THE WASHINGTON STATE
7 OFFICE OF THE INSURANCE COMMISSIONER

8 IN THE MATTER OF THE
9 APPLICATION REGARDING THE
10 CONVERSION AND ACQUISITION
11 OF CONTROL OF PREMIER BLUE
12 CROSS AND ITS AFFILIATES,

No. G02-45

DECLARATION OF JANET VARON

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WASHINGTON CITIZEN ACTION,
WELFARE RIGHTS ORGANIZING
COALITION, AMERICAN LUNG
ASSOCIATION OF WASHINGTON,
NORTHWEST FEDERATION OF
COMMUNITY ORGANIZATIONS,
NORTHWEST HEALTH LAW
ADVOCATES, SERVICE EMPLOYEES
INTERNATIONAL UNION
WASHINGTON STATE COUNCIL,
THE CHILDREN'S ALLIANCE,
WASHINGTON ACADEMY OF
FAMILY PHYSICIANS,
WASHINGTON ASSOCIATION OF
CHURCHES, WASHINGTON
PROTECTION AND ADVOCACY
SYSTEM AND WASHINGTON STATE
NOW,

Applicants for Intervention.

1 I, Janet Varon, declare:

2 1. I am the Executive Director of Northwest Health Law Advocates
3 (NoHLA). I have been director of NoHLA since its founding in 1999. I am an attorney
4 licensed to practice in Washington State.

5 2. NoHLA is exclusively dedicated to advancing low and moderate-
6 income individuals' access to affordable health care. NoHLA provides legal assistance,
7 policy analysis, and community education to individuals and organizations across
8 Washington State. NoHLA helps innumerable health care consumers and advocates
9 with issues relating to finding and preserving affordable coverage, maintaining access
10 to publicly-funded health care programs, and accessing consumer protections in
11 managed care.

12 3. NoHLA represents the concerns and interests of low and
13 moderate-income health care consumers in numerous forums, such as the Medical
14 Assistance Advisory Committee, which is charged with providing advice to
15 Washington's Medical Assistance Administration, and the King County Healthy
16 Options Committee, which monitors Medicaid managed care access. NoHLA also
17 provides support and training to legal services attorneys, health care providers, and
18 community organization who are assisting clients in cases with health care access
19 issues.

20 4. NoHLA has worked particularly closely with low-income health
21 care consumers in Yakima County on issues concerning the protection of Medicaid
22 services and affordability, consumer rights in managed care, hospital charity care, and
23 eligibility for publicly funded health care programs. NoHLA's work with Yakima
24 residents has been instrumental for informing Yakima County residents about changes
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1 in health care and ensuring their ability to participate in public meetings and forums
2 on health care access issues.

3 5. Based upon information and belief, most of the community
4 members NoHLA has collaborated with in Yakima are low-income members of the
5 Latino community, many of whom work in the agricultural sector and face many
6 barriers to health care. These barriers include lack of employer-sponsored coverage
7 and other insurance options, lack of capacity of the community health care system,
8 language barriers, and discrimination.

9 6. Based upon information and belief, many of the Yakima
10 community members with whom NoHLA collaborates have children who are enrolled
11 in the Medicaid Healthy Options program. Based upon information and belief, some
12 of these community members are enrolled in Premera through Healthy Options. All
13 Yakima community members who are enrolled in Healthy Options, whether they
14 choose Premera or another health carrier, will be significantly impacted by the Premera
15 conversion if the transaction results in changes to Premera's involvement in the
16 Medicaid Healthy Options program.

17 7. Healthy Options is a Washington state § 1915(b) Medicaid waiver
18 program that permits the state to require some Medicaid recipients, typically parents
19 and children, to enroll in managed care coverage with private, contracting health
20 carriers. Healthy Options helps to ensure that Medicaid consumers have the same
21 access to health care providers as other kinds of consumers. Under Healthy Options,
22 Premera is responsible for ensuring access to covered care for Premera Healthy
23 Options participants in ten Washington counties. Before Healthy Options, many
24 Medicaid consumers, especially people in rural areas, had difficulty finding health care
25 providers who would accept Medicaid coverage. Many Medicaid consumers would
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1 have to drive long distances, and experience long waits to get care. Healthy Options
2 helps to solve these specific barriers health care faced by Medicaid enrollees.

3 8. Because Healthy Options requires mandatory enrollment of some
4 Medicaid consumers, waiving those Medicaid consumers' "freedom of choice" under
5 42 USC 1396a(a)(23), the federal government requires Washington state to ensure that
6 Healthy Options participants always have a choice of at least two health carriers. If
7 there is only one available health carrier, Healthy Options enrollees may be forced to
8 give up their managed care enrollment, and lose the enhanced access to health care
9 they experience in Healthy Options. For example, Medicaid consumers in Yakima
10 experienced this loss when Regence BlueShield pulled out of the Healthy Options
11 program in 2001.

12 9. In several counties, Premera is one of only two health carriers
13 participating in Healthy Options. These include: Ferry, Pend Oreille and Stevens
14 Counties. Premera is the only health carrier offering Healthy Options in Kittitas and
15 Pacific Counties. If, after conversion, Premera withdrew from any of these counties,
16 the Healthy Options program in those counties would be jeopardized. Accordingly,
17 Premera's continued participation in the Healthy Options program is critical for
18 ensuring adequate access to health care through Healthy Options for many of the
19 community members with whom NoHLA collaborates.

20 10. Based upon information and belief, some community members
21 with whom NoHLA collaborates, in Yakima and other counties, are enrolled in the
22 Basic Health program (BHP). BHP provides state subsidized private health coverage to
23 low-income individuals and families who are not eligible for Medicaid. Premera
24 provides BHP coverage at the lowest ("benchmark") rates; many other plans provide
25 coverage at rates that are not affordable to BHP enrollees, even with state subsidies.

1 Premera is the only Basic Health plan in Asotin, Garfield, and Kittitas Counties. It is
2 the only benchmark plan in Whitman County and part of Pacific County, and one of
3 only two benchmark plans in Island, Stevens, Whatcom and Yakima Counties. Any
4 changes in Premera's participation in the BHP as a result of the proposed conversion
5 will impact WCA's BHP members, whether they are enrolled in Premera or another
6 plan.

7 11. NoHLA's constituency will be impacted by any changes that result
8 to the coverage and care provided by Premera as well as the impacts of the conversion
9 on the health care infrastructure as a whole, particularly as they relate to publicly
10 funded programs.

11 12. NoHLA has a significant interest in the conversion of Premera to
12 "for-profit" because the transaction could have serious implications for market
13 conditions, which could negatively impact NoHLA's constituency. It could drive up
14 prices and limit access to health care for the community members with whom NoHLA
15 works, their families, and their communities. It also could have implications for the
16 providers and hospitals used by NoHLA's constituents. If these providers'
17 reimbursement for costs of care is reduced, this would adversely affect the amount and
18 quality of services provided. Moreover, Premera's conversion might lead to its
19 abandonment of less profitable lines of business, including public programs. If this
20 were to happen, Healthy Options and Basic Health would have fewer carrier
21 participants, and these participants would be in a position to dictate prices and terms
22 to the state agencies. The only alternative would be for the state to abandon or reduce
23 the scope of these programs. Either way, the state could be forced to spend more funds
24 for the same services, and individuals' health care provider options could be seriously
25 limited. And, if Premera is given the green light, additional carriers may choose to
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1 convert to for-profit status as well. The combined impact could result in an even worse
2 situation. As a result of these concerns, NoHLA has a significant interest in the
3 outcome of Premera's application for conversion.

4 13. NoHLA also has significant interest in the protection and
5 management of the Premera's assets if such an application for conversion were to be
6 approved.. The low and moderate-income community members on whose behalf
7 NoHLA advocates are beneficiaries of the nonprofit assets held by Premera Blue Cross.
8 They may significantly benefit from the creation of a health foundation dedicated to
9 addressing unmet health care needs in Washington state. As a representative of low
10 and moderate-income health care consumers, NoHLA has a significant interest in
11 ensuring that Premera fully divests itself of all the nonprofit assets it holds, and that it
12 relinquishes all control of those assets as part of the conversion. NoHLA is opposed to
13 the use of the proceeds from the conversion for lobbying or other activities on behalf of
14 the interests of health insurers.

15 14. Since its founding, NoHLA has also become one of the state's
16 experts on health plan conversions. In 2001, NoHLA collaborated with consumer and
17 provider organizations to call for scrutiny of Regence BlueShield's proposed affiliation
18 with Health Care Service Corporation (HCSC) of Illinois. NoHLA analyzed the
19 transaction documents that had been filed with the Office of Insurance Commissioner
20 and, in collaboration with NoHLA's partners, brought attention to how the transaction
21 would have resulted in a transfer of control over Regence to HCSC, with no provision
22 for the required charitable set-aside. In the face of consumer opposition and regulatory
23 scrutiny, the deal between Regence and HCSC fell apart.

24 15. NoHLA has worked to improve the legal framework relating to
25 health care conversions, advocating for a conversion statute for health plans similar to
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1 the one in place for Washington hospitals. In January 2001, NoHLA commented on SB
2 5111, which would have amended the Insurance Code with regard to the protection of
3 nonprofit assets and the conversion of health care service contractors and health
4 maintenance organizations. In its testimony, NoHLA called for the protection of
5 nonprofit assets through the creation of a nonprofit foundation dedicated to addressing
6 the unmet health care needs of Washington residents.

7 16. Northwest Health Law Advocates, together with the other ten
8 consumer and provider groups that have jointly intervened, intends to conduct an
9 analysis of the health impact of the Premera conversion. NoHLA and the other ten
10 groups will need to be provide sufficient access to discovery in order to conduct the
11 health impact analysis and evaluation

12 I declare under penalty of perjury of the laws of the State of Washington
13 that the foregoing is true and correct.

14 DATED this ____ day of November, 2002, at Seattle, Washington.

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